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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/379,051 08/23/99 KUMP

W 201804

EXAMINER

IM52/0301

LEYDIG VOIT & MAYER LTD
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON
CHICAGO IL 60601-6780

CHANEY, C
ART UNIT

PAPER NUMBER

1745
DATE MAILED:

03/01/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory ActionApplication No.
09/379,051Applicant(s)
Kump et al.Examiner
Carol ChaneyGroup Art Unit
1745

THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires SIX months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 11-30-00 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☐ they raise new issues that would require further consideration and/or search. (See note below).
- ☐ they raise the issue of new matter. (See note below).
- ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Amendments filed 11-30-00 will be entered upon filing a supplemental declaration and establishing ownership interest.

☒ Applicant's response has overcome the following rejection(s):

The proposed amendments overcome the prior art rejections over Stocchierro and the 112 rejections.

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):
Claims allowed: none
Claims objected to: none
Claims rejected: 1-17
- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Other

**CAROL CHANEY
PRIMARY EXAMINER
ART UNIT 1745**

Art Unit: 1745

Reissue Application

1. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claim 10-17 are rejected as being based upon a defective declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above. Claims 10-17 in Amendment 'B' have been changed in a manner different from that of amendment 'A', yet no supplemental declaration has been filed. A supplemental declaration form is enclosed.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251.

2. This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:

(a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, or

(b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.).

The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.

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An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action. A copy of an appropriate paper is included with this office action.

3. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (703) 305-3777. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette can be reached on (703) 308-0756. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Carol Chaney
Primary Examiner
Art Unit 1745
February 28, 2001